

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0406

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1053** - 2/10/99

Introduced by: The Committee on Transportation at the request of the Department of
Transportation

1 FOR AN ACT ENTITLED, An Act to revise the open container law.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 35-1-9.1 be amended to read as follows:

4 35-1-9.1. It is a Class 2 misdemeanor for any person to consume any alcoholic beverage, or
5 have a package or any receptacle containing an alcoholic beverage in ~~his~~ the person's possession
6 in a motor vehicle unless the seal of the original package remains unbroken or the alcoholic
7 beverage is so removed from the passenger area of the motor vehicle that no occupant of the
8 motor vehicle ~~shall have~~ has access to it while the vehicle is ~~in motion~~ located on a public
9 highway or the right-of-way of a public highway.

10 Section 2. Terms used in § 35-1-9.1 mean:

11 (1) "Alcoholic beverage," any distilled spirits, wine, and malt beverage as defined in this
12 section;

13 (2) "Distilled spirits," ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum,
14 brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for
15 nonindustrial use containing any amount of alcohol;

16 (3) "Malt beverage," beer, ale, porter, stout, and other similar beverages of any name or

description made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, or from any substitute therefor, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption containing not less than one-half of one percent of alcohol by volume; and

(4) "Wine," any liquid either commonly used, or reasonably adapted to use, for beverage purposes, and obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar and containing not less than one-half of one percent of alcohol by weight but not more than twenty-four percent of alcohol by volume.

Section 3. It is not a violation of section 1 of this Act if an alcoholic beverage is located in a locked glove compartment of the motor vehicle.

Section 4. It is not a violation of section 1 of this Act if an open alcoholic beverage is behind the last upright seat of a motor vehicle that is not equipped with a trunk or in an area not normally occupied by the driver or passengers.

Section 5. It is not a violation of section 1 of this Act if a carrier defined in subdivision 35-1-1(3) is licensed pursuant to subdivision 35-4-2(9).

Section 6. It is not a violation of section 1 of this Act if any passenger possesses or consumes an alcoholic beverage in the living quarters of a motor home, house coach, or house trailer while the vehicle is not in motion.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Transportation. H.J. 42

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Transportation Deferred to another day, AYES 8, NAYS 5.

5 1/25/99 Scheduled for Committee hearing on this date.

6 1/25/99 Transportation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 169

7 1/27/99 Motion to Amend, Passed. H.J. 219

8 1/27/99 House of Representatives Do Pass Amended, Passed, AYES 57, NAYS 12. H.J. 220

9 1/28/99 First read in Senate and referred to Transportation. S.J. 243

10 2/9/99 Scheduled for Committee hearing on this date.

11 2/9/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 398